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Editorial Opinion

By Robert S. Gerber

— Associate Salaries: The Golden Fleece —

Law school students and recent graduates, in addition to many young lawyers, are thrilled with the recent news that major law firms in California are raising their starting salaries to approximately $125,000 per year, with similar, roughly 25% increases across the board for associates at all levels. While this is certainly not the first time salaries have jumped dramatically for young lawyers, it is the most significant proportional increase in decades.

I read the memorandum announcing our firm's new associate salary structure the same week I read in the paper that one of my colleagues had been appointed to the Superior Court bench in San Diego. The contrast was striking. That colleague will now earn approximately $8,000 less a year as a California Superior Court Judge than will the brand new associates who will join our firm in September and bill 1,950 hours during the first year. My colleague has 25 years of experience as an attorney; our new hires have not passed the bar examination yet.

If you think that partnership and recruiting committee meetings at law finns across the state have not been dominated by discussion on this topic, you must be living on a ilifferent planet. In fact, many firms have decided to close down offices or, even worse, dissolve their partnerships as a result of the upside-down economics created by these salary increases.

But just whose ox is being gored by this recent development? Certainly clients are suffering, since they are ultimately paying for the majority of these increases in the form of higher hourly rates. Law firm partners, whose draws have also declined to cover the increases, are also feeling the pain. But in my view, which may be surprising to some, associates will be hurt the most. We are already seeing the fallout in the following areas:

Higher billable hours. Firms are already announcing increases in billable hours. Many young associates think there is little difference between 1,900 hours and 2,100 hours. Those of us who have worked at both levels know differently. Every hour increase on the margin creates a nearly exponential effect; you simply must start giving up nights and weekends to bill 2,000+ annual hours. Lifestyles are being heavily and negatively impacted by this change.

Limited training and mentoring. Associates are not the only ones who will be working harder; partners will now have to work harder to pay the associates. As partner hours increase, one can expect corresponding decreases in things like associate oversight, training and mentoring. Associates will suffer in the long term from lack of appropriate attention and direction from more senior lawyers in the finn.

Reduced public service. When billable hours increase substantially, nonbillable hours usually decrease correspondingly. After all, there are only so many hours in a day. As a result, associates are already spending less time in activities like *pro bono publico* service, state and county bar association activities, Inns of Court and the like. These activities provide lawyers with invaluable skill sets, positive attitudes toward the profession and education in ethics and civility; activities that young lawyers must be exposed to if they wish to develop to their full potential.

Fewer professianal benefits. Large firms have traditionally provided significant professional benefits to young lawyers, like underwriting expensive MCLE programs, reimbursing associates for lavish client development expenditures and paying for their membership in numerous professional organizations. All of these expense items are undergoing substantial scrutiny and reduction.

Less job security. Higher associate salaries lead to (a) higher partner expectations of associates, and (b) an increased supply of high quality lawyers. As a result, associates whose performance is marginal are more likely to be terminated. Where firms could once afford to invest on a long-term basis in their young lawyers, now they are too concerned about attrition. It makes no financial sense to invest two or three years of training and education in a young lawyer -- particularly a mediocre one -- if that lawyer intends to 'jump ship" at the first increase in salary and benefits at another firm. Similarly, at the fIrst economic downturn, I would expect we will see some of the largest attorney layoffs that the profession has ever seen.

Thus, whether associate salary increases are "golden" depends on your view of who is being "fleeced." I do not seek to blame associates for these salary increases or for the fall-out from them. After all, it could be argued that partners' "short term" view of associates has resulted in associates' "short term" view of law firms, rather than vice versa. Similarly, market economics tell us that associates have simply been undervalued and that increased demand leads to increased prices.

But I do regret the effects of this dramatic economic development. Based upon my discussions with attorneys across the state, the salary increases appear to have increased the tension between partners and associates, decreased attorney morale, diminished opportunities for law school graduates and young lawyers and caused clients to become increasingly sensitive about attorneys spending time or being "trained" on their matters. Both partners and associates should carefully consider whether the profession is best served by law firms offering the illghest possible salaries at the expense of associate development or whether some more appropriate balance between the two is possible. Let's not be pennywise and pound foolish; our profession's young lawyers deserve better.

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The journal is sent free to members of the Litigation Section.

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